



# Nevada State Board of Medical Examiners

## \* \* \* MINUTES \* \* \*

### OPEN SESSION BOARD MEETING

Held in the Conference Room at the Offices of the  
Nevada State Board of Medical Examiners  
1105 Terminal Way, Suite 301, Reno, Nevada 89502

and videoconferenced to

the Conference Room at the Offices of the Nevada State Board of  
Medical Examiners/Nevada State Board of Dental Examiners  
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

*FRIDAY, DECEMBER 3, 2010 – 8:30 a.m.*

#### *Board Members Present in Reno*

Charles N. Held, M.D., President  
Benjamin J. Rodriguez, M.D., Vice President  
Valerie J. Clark, BSN, RHU, LUTCF, Secretary-Treasurer  
Javaid Anwar, M.D.  
Beverly A. Neyland, M.D.  
Theodore B. Berndt, M.D.  
Michael J. Fischer, M.D.  
Donna A. Ruthe

#### *Board Members Present in Las Vegas*

Ronald Kline, M.D., *ad hoc* Board Member for Agenda Item 13

#### *Board Members Absent*

None

Mailing Address: P.O. Box 7238 • Reno, Nevada 89510-7238  
Physical Address: 1105 Terminal Way, Suite 301 • Reno, Nevada 89502-2144  
(775) 688-2559 • Fax (775) 688-2321  
E-mail: [nsbme@medboard.nv.gov](mailto:nsbme@medboard.nv.gov) • Website: [www.medboard.nv.gov](http://www.medboard.nv.gov)

*Staff/Others Present*

Douglas C. Cooper, CMBI, Executive Director  
Edward O. Cousineau, J.D., Deputy Executive Director  
Lyn E. Beggs, J.D., General Counsel  
Bradley O. Van Ry, J.D., Deputy General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems  
Pamela J. Castagnola, CMBI, Interim Chief of Investigations  
Lynnette L. Daniels, Chief of Licensing  
Donya Jenkins, Finance Manager  
Johnna S. LaRue, Compliance Officer  
Colleen Hemingway, J.D., Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum
- *Charles N. Held, M.D., President*

The meeting was called to order by President Charles N. Held, M.D., at 8:30 a.m.

Ms. Beggs took roll call, and all Board Members were present with the exception of Ms. Ruthe. Ms. Beggs announced there was a quorum.

Dr. Held stated that Van V. Heffner had resigned from the Board and the Governor had not yet appointed a replacement.

Agenda Item 2

APPROVAL OF MINUTES

- September 10, 2010 Board Meeting – Open/Closed Sessions
- November 3, 2010 Telephone Conference Board Meeting – Open Session

Dr. Rodriguez moved to approve the Minutes of the September 10, 2010 Board Meeting – Open/Closed Sessions, and the Minutes of the November 3, 2010 Telephone Conference Board Meeting – Open Session. Dr. Fischer seconded the motion, and it passed unanimously.

Agenda Item 3

CONSIDERATION AND APPROVAL OF REVISED MISSION STATEMENT

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper read the current Mission Statement of the Board and then described proposed revisions.

Dr. Rodriguez moved that the Board accept and approve the Mission Statement with the requested revisions. Dr. Anwar seconded the motion, and it passed unanimously.

#### Agenda Item 4

##### PERSONNEL

- Annual Review and Discussion of Professional Competency of Staff
  - *Douglas C. Cooper, CMBI, Executive Director; Board Executive Committee*

Mr. Cooper stated that no salary increases for any staff members were being requested this year in order to comply with the austerity program set by the Governor for state employees. He said the Board should go into closed session to afford them the opportunity to discuss the performance of Board staff, but advised that any employee they wanted to discuss would have to be allowed the opportunity to be present during that portion of the Board's discussion.

Dr. Rodriguez moved to go into closed session. Dr. Berndt seconded the motion, and it passed.

Upon returning to open session, Dr. Held stated that the Board was very happy with all staff members.

#### Agenda Item 5

##### CONSIDERATION OF ADOPTION OF AMENDMENTS TO NEVADA ADMINISTRATIVE CODE CHAPTER 630

- Consideration of Amendment to Nevada Administrative Code Chapter 630, Amending NAC 630.505 to Update Language Related to Credentialing Bodies
  - *Edward O. Cousineau, J.D., Deputy Executive Director*

Mr. Cousineau explained that the proposed regulation amendment before the Board would modify the current language of NAC 630.505. The existing language is erroneous, in that it lists the National Board for Respiratory Care (NBRC) as the approval body for educational programs for respiratory therapists when, in fact, the NBRC is the certifying body for respiratory therapists. The language has been in place for quite a while and needs to be changed to reflect that the approval bodies for educational programs are the Commission on Accreditation of Allied Health Education Programs and the Committee on Accreditation for Respiratory Care.

Dr. Rodriguez moved that the Board authorize Mr. Cousineau to proceed with the regulatory process. Ms. Ruthe seconded the motion, and it passed unanimously.

#### Agenda Item 6

##### REVIEW AND DISCUSSION CONCERNING THE ADMINISTRATORS IN MEDICINE (AIM) ASSESSMENT FINDINGS

- *Douglas C. Cooper, CMBI, Executive Director; and select staff*

Mr. Cooper explained that he and other staff members had prepared responses to each of the recommendations contained in the AIM Assessment findings. Mr. Cooper, Mr. Cousineau, Ms. Munson, Ms. Jenkins, Ms. Beggs and Ms. Daniels then outlined the recommendations and staff responses to each.

Discussion ensued regarding the recommendations of the AIM assessment panel concerning the Board's public relations, media contacts, outreach opportunities, use of social media for public relations and informational purposes, scanning of old records for storage purposes, reporting of license application withdrawals to other boards, and establishing criteria

to determine which malpractice cases should be investigated and which do not warrant further scrutiny, rather than the current practice of investigating all malpractice suits. The Board was in favor of contacting the Federation of State Medical Boards and the University of Nevada regarding possible assistance from them regarding the Board's public relations, was not in favor of pursuing the use of social media at this time, and did not provide a consensus with respect to the other recommendations.

Agenda Item 7

CONSIDERATION OF AND DISCUSSION REGARDING PROPOSED MEMORANDUM OF UNDERSTANDING WITH THE OFFICE OF THE ATTORNEY GENERAL FOR LEGAL SERVICES

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper explained that the Attorney General's Office had requested that the Board enter into a memorandum of understanding (MOU) with them for legal services. He stated that clarification is needed with respect to whether legal representation exceeding the minimum number of hours agreed on per month would be at an hourly rate only or whether it would be at an hourly rate plus additional costs. He then explained that the need for outside representation was higher than average in 2010 due to a higher-than-usual number of lawsuits, but staff does not believe it should require that many hours in the future.. He then outlined the four areas where staff believes representation by the Attorney General's Office may be needed and provided the Board with the monthly minimum of hours staff was recommending be included in the MOU.

Discussion ensued regarding the number of hours the Board should agree to in the MOU. Mr. Cooper suggested an appropriate number would be 60 hours per year, and explained why.

Dr. Berndt moved that the Board approve entering into the MOU with the Attorney General's Office for 60 hours a year, 5 hours per month, in the four categories of representation outlined by Mr. Cooper. Dr. Neyland seconded the motion, and it passed unanimously.

Agenda Item 8

CONSIDERATION OF AND APPROVAL TO SEND PHYSICIAN BOARD MEMBER TO FSMB USMLE ITEM-WRITING WORKSHOP

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper explained that the Federation of State Medical Boards (FSMB) had invited a physician member of the Board to attend its upcoming USMLE Item-Writing Workshop, and would pay his or her travel expenses. He said it would be a good opportunity to become an expert on the USMLE, which may assist the Board in the future, and asked whether any physician Board Members were interested in attending.

Dr. Fischer and Dr. Neyland both expressed an interest in attending. Dr. Berndt volunteered as an alternate in the event neither of them was able to attend.

Mr. Cooper stated he would submit both names to the Federation and await a response.

*[Ms. Ruthe joined the meeting at 8:50 a.m.]*

Agenda Item 9

CONSIDERATION OF AND DISCUSSION REGARDING SUBMISSION OF  
RESOLUTION TO THE FSMB HOUSE OF DELEGATES ANNUAL BUSINESS MEETING

- *Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper stated the Federation of State Medical Boards (FSMB) had asked that Board Members consider whether they would like to proffer a resolution for discussion and study at the House of Delegates meeting in April. He explained that good policy comes out of these resolutions and they help guide boards in creating law. The Board could either submit a proposed resolution or submit ideas to the FSMB for them to do with as they will.

Dr. Rodriguez stated he may have something to submit, but wanted to think about it some more, and would let Mr. Cooper know at a later date.

Agenda Item 10

CONSIDERATION OF AND DISCUSSION REGARDING USE OF VERIDOC LICENSE  
VERIFICATIONS

- *Douglas C. Cooper, CMBI, Executive Director; Lynnette L. Daniels, Chief of Licensing*

Mr. Cooper requested approval from the Board to accept VeriDoc license verifications from other jurisdictions.

Ms. Daniels explained that the cost of these verifications is borne by the applicants and not by the Boards who utilize them.

Discussion ensued regarding whether it would be appropriate to accept license verifications from VeriDoc. Dr. Held and Dr. Anwar both stated it would expedite the process for applicants.

Dr. Anwar moved that the Board accept VeriDoc license verifications. Dr. Rodriguez seconded the motion, and it passed unanimously.

Agenda Item 11

CONSIDERATION AND DISCUSSION REGARDING NEVADA COALITION FOR SAFE  
INJECTION PRACTICES PROPOSED BDR FOR STATUTORY CHANGE REQUIRING  
MANDATORY CME RELATED TO PREVENTION OF HEALTHCARE-ASSOCIATED  
INFECTIONS FOR MEDICAL LICENSE IN NEVADA

- *Joseph Thiele, Nevada Safe Injection Practice Campaign Director; Douglas C. Cooper, CMBI, Executive Director*

Mr. Cooper explained that at the last meeting, the Board considered requests for mandatory continuing medical education (CME) in controlled substance prescribing and child abuse recognition by medical practitioners. At that time, he advised the Board that bill draft requests (BDRs) requiring CME for physicians were forthcoming, and if enacted, would generate statutory changes. This agenda item concerns one such BDR. Board staff has been working with the Coalition for Safe Injection Practices since inception of the Safe Injection Practices Campaign, and Shawna Rice has been the Board's representative. The Board was being asked to consider two proposed versions of the BDR. The first would require four hours CME for initial licensure and four hours for renewal of licensure, and the second would require two hours for initial licensure and two hours for renewal of licensure.

Leticia Metherell, of the Nevada Coalition for Safe Injection Practices, explained that the first proposal had a broader scope and would require all health care practitioners in Nevada to take a four-hour course on the prevention of health-care associated infections for initial licensure and for renewal of licensure, which must include safe injection practices and multi-drug resistant organisms. It would also require all licensees to encourage their unlicensed health care assistants to take the same training. The second proposal would require a two-hour course in safe injection practices for initial licensure and for renewal of licensure, and for licensees to encourage unlicensed health care assistants who operate under their direction to complete a course relating to safe injection practices. She then explained why the Coalition believes it is important that the bill be considered. She said they welcomed the Board's input and hoped for its support in moving the bill forward.

Discussion ensued regarding whether mandating this type of CME would be appropriate.

Ms. Daniels stated that mandating these types of CME for initial licensure could make it more difficult to encourage physicians to become licensed in Nevada.

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association (NSMA), stated the NSMA was part of the team who developed the safe injection practices materials, but they don't agree that the mandated CME approach is the right approach. Studies have shown it doesn't work because there is resentment in being mandated to take a course that is not necessarily relevant directly to a physician's practice, and there is only a limited amount of time for CME and deciding how to invest that time for education has to be done practice by practice. He suggested instead pursuing development of the materials and having all boards encourage they be used by their licensees whose practices include giving injections.

Discussion ensued regarding effectiveness of the mandated CME approach and whether it would be appropriate to require this type of CME for initial licensure and/or renewal of licensure.

Dr. Rodriguez suggested the Coalition encourage attendance at these CME courses by offering them for free. Dr. Berndt suggested the Coalition offer a "certificate of excellence" for attendance as an incentive.

Mr. Matheis concurred that an incentive approach, rather than a mandated approach, would be more effective.

Dr. Held suggested that the Coalition consider setting up a certification program for those health care practitioners who actually give injections, and that the Board consider creating an outreach program for the public and for physicians on this topic.

Agenda Item 12

**ADJUDICATION IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. STEVEN MACARTHUR, M.D., BME CASE NO. 09-18625-1**

***- Colleen Hemingway, J.D., Deputy Attorney General***

Dr. MacArthur was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Colleen Hemingway, J.D., Deputy Attorney General, asked whether the adjudicating Board Members had received and reviewed the materials related to the matter and whether they were prepared to adjudicate the matter. All indicated they had reviewed the materials and were ready to adjudicate the matter. She asked whether any of them had any questions, and there were none. She then read the single count contained in the formal Complaint filed against Dr. MacArthur.

Discussion ensued regarding the fact that Dr. MacArthur did not attend the prehearing conference or the hearing, although he had been noticed, and the only information received from Dr. MacArthur was his written response to the Complaint.

Discussion ensued regarding Dr. MacArthur's treatment of the patient and whether it fell below the standard of care.

Dr. Held moved that the Board find Dr. MacArthur guilty of the count contained in the Complaint. Ms. Clark seconded the motion, and it passed, with Dr. Rodriguez voting against the motion and all other adjudicating Board Members voting in favor of the motion.

Dr. Held moved that Dr. MacArthur receive a public reprimand, pay a fine of \$2,500 and reimburse the Board's costs related to the case.

Ms. Castagnola stated the costs incurred by the Board in the case to date were \$9,890.60.

Dr. Held added to his motion that reimbursement of the fine and costs were to be payable within 120 days. Dr. Rodriguez seconded the motion.

Dr. Held amended his motion to include 10 hours of AMA Category 1 CME in record keeping, to be completed within one year. Dr. Rodriguez seconded the amendment.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

#### Agenda Item 13

CONSIDERATION OF PETITION OF ELADIO CARRERA, M.D. FOR  
RECONSIDERATION AND MODIFICATION OF SETTLEMENT, WAIVER AND  
CONSENT AGREEMENT IN THE MATTER OF THE NEVADA STATE BOARD OF  
MEDICAL EXAMINERS VS. ELADIO CARRERA, M.D., BME CASE NO. 08-9241-1

- Eladio Carrera, M.D.; David J. Mortensen, Esq.

Dr. Carrera was present with his attorney, Andrea Thorsteinsson, Esq.

Dr. Held named the adjudicating Board Members who would be considering the matter, which included *ad hoc* Board Member Ronald Kline, M.D.

Since neither Dr. Held nor Dr. Rodriguez were adjudicating Board members for this agenda item, Ms. Clark presided over the matter.

Ms. Thorsteinsson stated that Dr. Carrera had filed his petition because continuation of his probationary period was continuing to encumber his license and prohibit him from moving

on with his life and practicing medicine. As outlined in his petition, he had complied with all terms of his settlement agreement, save and except for the remainder of his probationary period, which was approximately seven months. He had received a public reprimand and had paid the fine and the Board's costs. To date, he had not been made aware of any costs associated with the monitoring of his probation, but should the Board present those costs to him, he would be ready, willing and able to pay them. He had agreed to testify truthfully as a fact witness at any other proceedings involving the Endoscopy Center of Southern Nevada. Therefore, the purpose of the probationary period has been fulfilled and it was unnecessary to continue it. She stated that continuing the probationary period for an additional six to seven months would have a substantial debilitating hardship on Dr. Carrera, and outlined the reasons why. She added that the Board recently dismissed a complaint against Dr. Clifford Carroll that was substantially similar in nature to the one against Dr. Carrera, and in light of that dismissal, it would be inequitable to continue Dr. Carrera's probationary period.

Dr. Carrera explained how completing the probationary period would hinder his ability to obtain hospital privileges and otherwise negatively affect his ability to practice medicine.

Discussion ensued regarding whether it would be appropriate to waive the remainder of Dr. Carrera's probationary period.

Ms. Clark moved that the Board deny Dr. Carrera's petition. Dr. Berndt seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

#### Agenda Item 14

#### CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES BOYLE, R.R.T.*, BME CASE NO. 09-33089-1

- Lyn E. Beggs, J.D., General Counsel

Mr. Boyle was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Ms. Beggs outlined the facts of the case and the terms of the proposed settlement agreement.

Dr. Fischer moved that the Board accept the settlement agreement as presented. Ms. Ruthe seconded the motion, and it passed, with Dr. Held voting against the motion and all other adjudicating Board Members voting in favor of the motion.

#### Agenda Item 15

#### CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DARREN SOONG, M.D.*, BME CASE NO. 10-8698-1

- Bradley O. Van Ry, J.D., Deputy General Counsel

Dr. Soong was not present. L. Kristopher Rath, Esq. was present in Las Vegas as counsel for Dr. Soong.



Dr. Held named the adjudicating Board Members who would be considering the matter.

Mr. Van Ry outlined the facts of the case and the terms of the proposed settlement agreement.

Discussion ensued regarding the amount of the fine included in the proposed settlement.

Dr. Anwar moved that the Board accept the settlement agreement. Dr. Fischer seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 16

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DANIEL LINK, M.D.*,  
BME CASE NO. 10-11919-1

- *Bradley O. Van Ry, J.D., Deputy General Counsel*

Dr. Link was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Mr. Van Ry outlined the facts of the case and the terms of the proposed settlement agreement.

Ms. Ruthe moved that the Board accept the settlement agreement as presented. Ms. Clark seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 17

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ISMAT CHAUDHERY, M.D.*,  
BME CASE NO. 10-11300-1

- *Bradley O. Van Ry, J.D., Deputy General Counsel*

Dr. Chaudhery was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Mr. Van Ry outlined the facts of the case and the terms of the proposed settlement agreement.

Discussion ensued concerning the fine and the continuing medical education requirement included in the proposed settlement.

Dr. Fischer moved that the Board accept the settlement agreement as presented. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 18

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. THOMAS SAZANI, M.D.*, BME CASE NO. 10-9841-1

- *Lyn E. Beggs, J.D., General Counsel*

Dr. Sazani was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Since Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Ms. Beggs outlined the facts of the case and the terms of the proposed settlement agreement.

Dr. Rodriguez moved that the Board accept the settlement. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 19

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. JAMES UNGER, M.D.*, BME CASE NO. 10-6159-1

- *Bradley O. Van Ry, J.D., Deputy General Counsel*

Dr. Unger was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Since Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Mr. Van Ry outlined the facts of the case and the terms of the proposed settlement agreement.

Dr. Rodriguez moved that the Board accept the settlement as presented. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 20

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MARK KABINS, M.D.*, BME CASE NO. 10-7510-1

- *Edward O. Cousineau, J.D., Deputy Executive Director*

Dr. Kabins was present with his attorneys, John Hunt, Esq. and John Spilotro, Esq.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Since Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Mr. Cousineau outlined the facts of the case and the terms of the proposed settlement agreement.

Mr. Hunt stated that proposed settlement agreement was a measured response which protects the interests of the public because it implements remedial measures for an incident that will never occur again, and asked that the Board adopt it.

Discussion ensued regarding the number of hours of community service included in the proposed settlement agreement. Dr. Rodriguez proposed that the number be 500 hours of community service, due to the egregious nature of the case.

The matter was tabled in order to allow Mr. Cousineau, Dr. Kabins and his attorneys to discuss a possible increase in the number of hours for the community service requirement.

When the Board returned to consideration of this matter, Mr. Cousineau advised the Board that Dr. Kabins and his counsel had agreed to modify the terms of the settlement agreement as it related to the community service proposal from 240 to 500 hours, to be accomplished during the pendency of the federal probationary period. All other terms in the settlement agreement, as enunciated previously, would remain.

Ms. Ruthe moved that the Board accept the settlement with the modification. Dr. Neyland seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 21

**CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CONRAD MURRAY, M.D.*, BME CASE NO. 10-12785-1**

*- Edward O. Cousineau, J.D., Deputy Executive Director*

Dr. Murray was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Since Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Mr. Cousineau outlined the facts of the case and the terms of the proposed settlement agreement.

Dr. Rodriguez moved that the Board accept the settlement. Dr. Neyland seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 22

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ERIC BRECHER, M.D.*, BME CASE NO. 10-28324-1

- *Bradley O. Van Ry, J.D., Deputy General Counsel*

Dr. Brecher was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Since Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Mr. Van Ry outlined the facts of the case and the terms of the proposed settlement agreement.

Dr. Fischer moved that the Board accept the settlement as presented. Ms. Ruthe seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 23

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KEVIN BUCKWALTER, M.D.*, BME CASE NO. 08-12069-1

- *Edward O. Cousineau, J.D., Deputy Executive Director*

This matter was not considered at the meeting.

Agenda Item 24

CONSIDERATION OF VOLUNTARY SURRENDER OF MEDICAL LICENSE OF JAMES BEECHAM, M.D.

- *Bradley O. Van Ry, J.D., Deputy General Counsel*

Dr. Beecham was not present.

Dr. Held named the adjudicating Board Members who would be considering the matter.

Since Dr. Held was not an adjudicating Board member for this agenda item, Dr. Rodriguez presided over the matter.

Mr. Van Ry stated that Dr. Beecham had relocated to Florida and his response to the Complaint that was filed against him was to send a signed voluntary relinquishment of his license to the Board. He claimed he had shredded his wall certificate and had lost his wallet ID in the move. If the Board accepts his voluntary surrender of license, it would still retain jurisdiction over Dr. Beecham with respect to pending disciplinary proceedings against him.

Dr. Fischer moved that the Board accept the voluntary surrender and attempt to obtain reimbursement of the Board's costs in the disciplinary case. Dr. Anwar seconded the motion, and it passed unanimously.

Agenda Item 25

**CONSIDERATION AND ADOPTION OF BUDGET FOR FISCAL YEAR 2011**

- *Valerie J. Clark, BSN, RHU, LUTCF, Secretary-Treasurer; Douglas C. Cooper, CMBI, Executive Director; Donya Jenkins, Finance Manager*

Ms. Clark stated she had met with Mr. Cooper and Ms. Jenkins and they thoroughly reviewed the proposed budget. She said she was satisfied that it was a good budget for the Board for 2011.

Ms. Jenkins clarified that the information technology budget items were listed separately in the budget pursuant to recommendation of the AIM assessment panel, and then outlined the information technology-related items.

Ms. Jenkins explained that staff was requesting an increase in the fee charged for online renewals in order to cover the credit card processing charges that will be incurred by the Board in the upcoming renewals period.

Dr. Held asked whether there were any members of the public present who would like to make a public comment with respect to the proposed budget, and there were none.

Discussion ensued regarding various items included in the proposed budget.

Dr. Rodriguez moved that the Board accept the proposed budget. Dr. Berndt seconded the motion, and it passed unanimously.

Agenda Item 26

**REPORTS**

- Physician Assistant Advisory Committee - *John B. Lanzillotta, P.A.-C, Advisory Committee Member*
- Practitioner of Respiratory Care Advisory Committee - *John H. Steinmetz, R.R.T., Advisory Committee Member*
- Investigative Committees - *Charles N. Held, M.D., President, Chairman, Investigative Committee A; Benjamin J. Rodriguez, M.D., Vice President, Chairman, Investigative Committee B*
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division
  - Status of Investigative Caseload - *Pamela J. Castagnola, Interim Chief of Investigations*
  - Quarterly Compliance Report - *Johnna S. LaRue, Compliance Officer*
- Nevada State Medical Association Report - *Lawrence P. Matheis, Executive Director, Nevada State Medical Association*
- Clark County Medical Society Report - *Mitchell D. Forman, D.O., FACR, FACOI, FACP, President, Clark County Medical Society; Benjamin J. Rodriguez, M.D., Board Vice President*

Physician Assistant Advisory Committee

John B. Lanzillotta, P.A.-C told the Board the Advisory Committee would be presenting two items to the Board at its March 2011 meeting, both involving statutory language as it relates to physician assistants. The first involves a number of statutes which prohibit physician assistants from performing medical functions, despite being qualified to do so, by virtue of their

wording referring to physicians only, and not to physician assistants as well. The second will be a proposal to change NRS 89.070 to allow physician assistants licensed by the Board of Medical Examiners to have minority ownership in a professional corporation with a physician licensed by the Board.

#### Practitioner of Respiratory Care Advisory Committee

John H. Steinmetz, R.R.T. stated the Advisory Committee had nothing to report at this meeting, as there were no current issues on the table before the Advisory Committee.

#### Investigative Committees

##### - Consideration of Cases Recommended for Closure by the Committees

Dr. Held reported that Investigative Committee A had met and considered a total of 110 cases, authorized the filing of a formal complaint in 4 cases, sent 5 cases out for peer review, requested an appearance in 6 cases, issued 13 letters of concern, referred 6 cases back to investigative staff for further investigation or follow-up, reviewed 1 case for compliance and recommended closure of a total of 75 cases.

Dr. Anwar moved to approve for closure the cases recommended by Investigative Committee A. Dr. Rodriguez seconded the motion, and it passed unanimously.

Dr. Rodriguez reported that Investigative Committee B had met and considered 74 cases, sent 1 case out for peer review, requested an appearance in 6 cases, issued 17 letters of concern, referred 2 cases back to investigative staff for further investigation or follow-up and recommended closure of a total of 48 cases.

Dr. Rodriguez moved to approve for closure the cases recommended by Investigative Committee B. Dr. Neyland seconded the motion, and it passed unanimously.

#### Investigations Division

##### - Status of Investigative Caseload

Ms. Castagnola reported that there were currently 384 open investigative cases, which was an increase from 370 open cases as of the September Board meeting. The current number of cases per investigator is 58 on average. There were 30 peer reviews in the field and 12 peer reviews awaiting assignment.

##### - Quarterly Compliance Report

Ms. LaRue reported that 10 investigative compliance cases and five licensing compliance cases had been closed since the last report. She was currently monitoring 114 cases. To date, for 2010, 47 formal complaints had been filed, 183 letters of concern had been issued and \$5,000.00 in compliance monitoring fees had been collected. From July through September 2010, \$20,000 in costs and \$4,000 in fines were collected. The outstanding balance as of September 30 was \$256, 835.46 in costs and \$66,500 in fines. Since September 30, the Board had collected an additional \$17,000 in costs and \$3,000 in fines.

Discussion ensued regarding the composition of the outstanding balance.

## Nevada State Medical Association Report

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association (NSMA), reported they had added two new staff positions, a practice management specialist and a director of government relations, and had been providing workshops on Medicare billing issues and on integrating practices. They had entered into a cooperative arrangement with the AARP Nevada to make the public and Nevada's congressional delegation aware that something must be done to fix the Medicare payment system. They took a survey which showed 12% of Nevada physician practices have left the Medicare program, which is virtually unheard of. Nevada is already seeing many Nevadans on Medicare who are having significant problems finding physicians. The NSMA is preparing for the upcoming legislative session and will be holding weekly meetings during the session to discuss the legislation as it affects physicians.

Discussion ensued regarding the issues that are arising due to the problems with the Medicare program.

Dr. Held asked whether any Board members were interested in becoming a liaison to the Nevada State Medical Association, and Dr. Fischer volunteered.

## Clark County Medical Society Report

Lesley Dickson, M.D. reported that the Clark County Medical Society (CCMS) had hired Debra Trent as its new Executive Director.

Dr. Rodriguez stated he had nothing to add.

## Agenda Item 27

### EXECUTIVE STAFF/STAFF REPORTS

- Update Regarding Legislative Initiatives for 2011 Legislative Session
  - *Douglas C. Cooper, CMBI, Executive Director*
- Consideration of Request for Staff and Board Member Attendance at Educational Meetings
  - *Douglas C. Cooper, CMBI, Executive Director*
- Quarterly Update on Finances - *Donya Jenkins, Finance Manager*
- Informational Items - *Douglas C. Cooper, CMBI, Executive Director*

## Update Regarding Legislative Initiatives for 2011 Legislative Session

Mr. Cooper explained that when proposed legislative initiatives were discussed at the September meeting, the only item the Board wanted to review further was the proposed change to NRS 630.307, with respect to the reporting timeframes provided therein. The original proposal would have required a hospital or ambulatory center to notify the Board within 24 hours of any change in privileges. At that time, the Board indicated a desire to modify the reporting timeframe to be more in line with other reporting requirements in the statutes. Although these facilities have said they could possibly comply with the proposed 24-hour reporting requirement, they admitted they probably could not compile all the evidence within 24 hours if the change in privileges involved a mental, medical or psychological competency issue or substance abuse issue. Therefore, the proposed reporting timeframe in NRS 630.307 has been changed to comply with what the Board requested, and will require reporting a change in or loss of privileges within 5 calendar days if the reason for the change involves mental, medical or psychological competency or when a form of substance abuse is suspected or alleged. The

current statute allows 30 days in which to report a loss of privileges for other reasons, such as charting, unnecessary testing, etc., and that requirement will remain at 30 days.

Mr. Cooper explained the impetus for this change in the statute.

Dr. Held asked if any Board Members had any issues with the current proposal, and none were indicated.

#### Consideration of Request for Staff and Board Member Attendance at Educational Meetings

Mr. Cooper outlined the request to send attendees to the Federation of State Medical Boards 2011 Annual Meeting.

Dr. Fischer moved that the Board approve sending the requested attendees. Dr. Neyland seconded the motion, and it passed unanimously.

Dr. Held encouraged the other Board Members to attend if they were able, even though it would be at their own expense, because a lot of good information is provided at those meetings. Dr. Rodriguez moved that the Board pay the registration fees for Board Members who must otherwise attend the FSMB annual meetings at their own expense. Dr. Fischer seconded the motion, and it passed unanimously.

#### Quarterly Update on Finances

Ms. Jenkins highlighted the information contained in the financial documents provided to the Board – the Balance Sheet, the Profit and Loss, and the Profit and Loss Budget vs. Actual. In summary, the Board was currently ahead of its budget by \$42,221.00 and the total net income for the quarter was \$96,837.00.

#### Informational Items

Mr. Cooper explained that Board staff had met with Dr. Zucker and Dr. Idler, both anesthesiologists, who are soliciting the assistance of Assemblyman Joseph Hardy, M.D., to put together a bill draft request (BDR) for licensure of anesthesiologist assistants by the Board.

Ms. Daniels explained that anesthesiologist assistants have a certifying board which is similar to that for physician assistants. She stated there are currently no anesthesiologist assistants working in the state; therefore the expense involved in setting up a new licensee group for them at this time would be difficult to justify.

Discussion ensued regarding whether it would be appropriate for the Board to license anesthesiologist assistants at this time, particularly in light of the fact that there currently are none working in the state.

Mr. Cooper said he had told Drs. Idler and Zucker staff would look into the models that other states use who currently license anesthesiologist assistants, but made no commitment otherwise. He also requested the Board's lobbyist, Keith Lee, watch this BDR and keep him informed as to its status.



Agenda Item 28

LEGAL REPORTS - *Lyn E. Beggs, J.D., General Counsel*

- Board Litigation Status

Ms. Beggs reported there were 90 open cases in the Legal Division, 61 of those being matters in which a formal complaint has been filed and were pending. The cases resolved at this meeting were included in that number. The number of district, supreme and federal court cases involving the Board continues to grow and there were a few petitions for judicial review pending, one matter pending in the Nevada Supreme Court and a newly-filed federal case. The backlog of cases in the Legal Division has been greatly reduced and the Division is very current on the cases that are proceeding forward.

Agenda Item 29

LICENSURE RATIFICATION

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status Approved Since the September 10, 2010 Board Meeting

Dr. Anwar moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the September 10, 2010 Board Meeting. Dr. Rodriguez seconded the motion, and it passed unanimously.

Agenda Item 30

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

30(a) Dale Mericle, M.D.

Dr. Mericle was present in Reno with his attorney, Lee Hodgkin, Esq.

Dr. Held asked Dr. Mericle whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Rodriguez moved that the Board go into closed session. Dr. Neyland seconded the motion, and it passed.

Upon returning to open session, Dr. Held moved that the Board grant Dr. Mericle a license contingent upon the following: (1) that he maintain his ABMS certification in family medicine as long as he maintains a license in Nevada; and (2) that he have a female staff chaperone present when he is examining female patients, without exception, for as long as he maintains a license in Nevada, and that he keep the Board apprised of his practice locations since he tends to move around a lot. Dr. Fischer seconded the motion, and it passed unanimously.

30(b) Stephen Dubin, M.D.

Dr. Dubin was present in Las Vegas. Ravi Ramanathan, M.D. appeared with Dr. Dubin.

Dr. Held asked Dr. Dubin whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Rodriguez asked Dr. Dubin how he felt he did on phase 2 of his PACE program, and Dr. Dubin said he thought he had done well, as was reflected in the reports from PACE.

Dr. Rodriguez asked Dr. Dubin what he was proposing for his preceptorship, and Dr. Dubin described his proposal, which included four months of evaluation, 50 units of continuing medical education and a percentage of patients to be co-signed by his preceptor.

Dr. Rodriguez asked Dr. Ramanathan whether he was prepared to undertake the preceptorship of Dr. Dubin, and he stated he was.

Dr. Rodriguez stated he had reviewed the proposal and requested that some changes be made to it. Instead of a 4-month preceptorship, a 12-month preceptorship would be more appropriate since he had been out of practice for some time. Twenty percent of patients being reviewed each quarter would be appropriate and the first 20 patients should be reviewed.

Mr. Cooper added that the preceptor should be required to submit quarterly reports to the Board.

Dr. Berndt asked Dr. Ramanathan about his practice and the type of treatment Dr. Dubin would be providing under his preceptorship, and Dr. Ramanathan described both.

Dr. Rodriguez moved that the Board grant Dr. Dubin's application for licensure; contingent upon Dr. Dubin completing a 12-month preceptorship with an M.D. under the purview of the Board, with the first 20 patients being reviewed and 20 percent of his patients being reviewed each quarter, with reports provided to the Board, with the details being finalized by the Licensing Division. Ms. Ruthe seconded the motion, and it passed unanimously.

#### Agenda Item 31

#### MATTERS FOR FUTURE AGENDA

Mr. Cooper stated the following items would be included on the agenda for a future Board meeting: Utilization of VeriDoc, a legislative update, adjudication process training for Board Members, and consideration of supplemental health insurance for Board staff.

Dr. Held added the following item: discussion regarding how the Board handles applicants whom it discovers have provided false information on their license applications.

#### Agenda Item 32

#### PUBLIC COMMENT

Dr. Held asked whether there were any members of the public present who would like to make a public comment, and there were none.

#### ADJOURNMENT

Dr. Anwar moved to adjourn the meeting. Dr. Rodriguez seconded the motion, and Dr. Held adjourned the meeting at 2:44 p.m.

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